

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
AIR RESOURCES BOARD**

**COMMENTS OF SIERRA PACIFIC POWER COMPANY (“SPPC”) ON THE
PROPOSED CONCEPT OUTLINE FOR THE CALIFORNIA RENEWABLE
ELECTRICITY STANDARD (“RES”)**

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COMMENTS OF SIERRA PACIFIC POWER COMPANY ON THE PROPOSED CONCEPT OUTLINE FOR THE CALIFORNIA RES

Sierra Pacific Power Company (“Sierra”) provides the following initial comments on the rulemaking to implement a 33% by 2020 Renewable Electricity Standard (“RES”). The RES rulemaking was instituted pursuant to Executive Order S-21-09. The California Air Resources Board (“CARB”) recently released a Proposed Concept Outline for the 33% RES (“RES Proposal”), held an initial workshop on October 30, 2009, and has requested comments on the RES Proposal.¹ For the reasons described below, Sierra urges CARB to exempt it from the RES because of its status as a multi-jurisdictional utility, and because its California operations are appropriate for a small LSE exemption.

Sierra is one of the two multi-jurisdictional utilities (“MJU”), serving retail electricity customers in California. Sierra, like the other MJU, is in a unique position compared to the three large investor owned utilities (“IOUs”). Sierra serves a relatively small load primarily centered in the Sierra Tahoe region of California and the Reno area of Nevada. Sierra’s service territory is not part of the California Independent System Operator Corporation (“CAISO”), but rather, Sierra is its own balancing authority. Because Sierra’s territory is bisected by a state line, Sierra’s operations must comply with the laws of each respective jurisdiction. This MJU status poses some unique challenges, and traditionally, the California Public Utilities Commission (“CPUC”) and the California Legislature have acknowledged this by tailoring rules to meet the unique circumstances of the MJUs. Sierra’s comments on the proposed CARB RES discusses why these issues support a careful consideration of the MJUs and exemption from the RES.

¹ CARB requested comments on the Concept Outline, which is available at:
<http://www.arb.ca.gov/energy/res/meetings/103009/resconceptoutline.pdf>

Discussion

A. Sierra's Unique Multi-Jurisdictional Characteristics Underscore The Need To Exempt The MJUs From The RES Program.

The challenges Sierra faces in the operation of its California electric system differ in significant respect from those facing California's other electric utilities. Sierra is a multi-jurisdictional investor-owned utility that serves approximately 400,000 customers throughout its combined Northern Nevada and California service territories. In California, Sierra serves 46,000 customers primarily located in the western portions of the Lake Tahoe Basin. California sales represent a little over six percent (6%) of total sales, or approximately 532 GWhs in 2008.² Even though the Sierra service territory is divided by the California-Nevada state line, the service territory is operated as a single integrated territory. Sierra makes planning, procurement and other planning decisions on behalf of its entire service territory under an integrated resource plan pursuant to Nevada law, with limited reporting to the CPUC. Moreover, in the context of California's Renewable Portfolio Standard statute, Sierra's regulatory posture differs under the provisions of Public Utilities Code § 399.17 and the CPUC's implementation program.

Just in terms of size, Sierra differs significantly from the three largest investor owned utilities located within the CAISO footprint. The three IOUs serve more customers in California than Sierra's 532 GWh load by orders of magnitude.³ Sierra also has unique physical and operational characteristics. Sierra has limited electrical connections with the rest of California and is not a part of the electrical grid controlled by CAISO. The vast majority of Sierra's

² Energy Information Administration Form EIA-826 Database Monthly Electric Utility Sales and Revenue Data, 2008 Year 12-month data set for SPPC California activities, posted at <ftp://ftp.eia.doe.gov/pub/electricity/f8262008.xls>.

³ This disparity in size is evident in the recent allocation of each participating utility's proportionate share of capacity for the public water and wastewater program. The three largest utilities were assigned 99.401% of the statewide total generating capacity for these facilities, while Sierra's obligation constituted only 0.162%. See: D.07-07-027, issued in R.06-05-027, *mimeo*, p. 9.

generation resources—both renewable and fossil—are located within Nevada and transmitted to the California service territory. Sierra’s very limited electrical connections with the rest of California significantly restrict the ability to import electricity into Sierra’s service territory from resources located within CAISO.

As a small utility that must comply with the laws and regulations of two states, new regulatory developments that are additive to existing ones can impose significantly disproportionate costs that may not be justified given Sierra’s relatively small load, and that may result in a California-only rate increase. Sierra believes that, given the totality of circumstances facing a MJU, the CARB RES program should not be extended to MJUs, including Sierra. The Concept Outline contemplates a small utility threshold of 500 GWhs, and requests comments on the threshold proposal.⁴ As noted above, Sierra’s 2008 load was approximately 532 GWhs.⁵ Sierra’s current expectation is that its 2009 load will fall below that level. Accordingly, Sierra’s operations are around the size contemplated for the threshold. However, while a bright-line threshold may be attractive at first blush, Sierra suggests that other relevant factors should be considered. Providing a specific approach for MJUs in light of their unique circumstances would be consistent with regulatory approaches taken by the CPUC in the RPS and other contexts. Sierra urges CARB to consider the totality of the MJU circumstances and allow an exemption from the RES program.

B. If CARB Does Not Provide a MJU Exemption, It Should Strive To Create Parity With The Existing RPS Program

One of, if not the most, significant hurdles to renewable development is the high degree of regulatory uncertainty both for load serving entities (“LSEs”) and renewable generation

⁴ Cite?

⁵ Cite to EIA data.

developers. Some of the concepts detailed in the RES Proposal could unintentionally exacerbate the existing regulatory uncertainty. Parity to the existing RPS program will provide a greater degree of certainty for regulated entities. Sierra therefore encourages CARB to develop rules that mirror the existing RPS program. To create parity, CARB should avoid implementing rules that are inconsistent with the existing RPS program. Inconsistent rules could lead to a situation where LSEs must double procure resources to comply with both the RES and RPS. In addition, the existing RPS program is already a complicated program, and CARB should avoid creating new layers of complexity

Under California's existing RPS, Sierra qualifies for treatment that allows it to utilize certain out-of-state renewable resources in a streamlined manner. If Sierra is not provided an exemption for the reasons previously described, then CARB must ensure that the RES program does not impose additional compliance hurdles. As noted above, the vast majority of resources used to serve the California portion of the service territory are sourced out of Nevada and the very limited connections to California effectively preclude utilization of energy generated within CAISO. Thus, Sierra supports the portions of the Concept Outline that would allow for use of out-of-state renewable energy credits ("RECs") because, simply put, it would have no other option.

The Concept Outline states:

Purchase and Use of RECs, PPAs for energy and RECs, REC-only transactions, and generation owned by regulated parties would be eligible to satisfy the RES. RECs traded separately from energy generation would be eligible for the RES, provided the RECs were tracked by the Western Renewable Energy Generation Information System (WREGIS) and the regulated party could demonstrate that the REC attribute, and its GHG emission reduction attributes, were not used towards other renewable generation or GHG reduction program requirements

Sierra is very encouraged that CARB seeks to maintain consistency with the existing RPS program here. However, this paragraph is also troubling because the last sentence suggests that CARB would not allow a REC to be used by an LSE for both the RES and the RPS. Care must be taken to ensure that no artificial limitations are created on the use of WREGIS Certificates for compliance with the RES. Moreover, the regulatory structure should be designed to avoid requiring complex accounting programs. If an LSE is required to surrender one set of RECs for its RPS requirements and a different set for its RES requirements, then the accounting for both programs must be linked to avoid a double procurement burden. An increasingly complex tracking and accounting approach would be a substantial and disproportionate hardship for Sierra's 46,000 California customers, given the complex accounting already required due to its MJU status and the small customer base over which those accounting costs are spread. Sierra therefore urges CARB to simplify its approach and allow for use of the same REC in satisfying an LSE's RPS and RES requirements.

C. CARB Should Avoid Utilizing A GHG Metric For Measuring RPS Compliance

Sierra is concerned that development of an explicit RES GHG metric will create a degree of inaccuracy and complexity in the program that will unreasonably increase the regulatory burden. Minimization of regulatory uncertainties and avoidable burdens for MJUs should be a primary objective in this rulemaking. A GHG metric will be inaccurate because it assumes there is a common GHG emissions reduction from integrating a certain renewable resource. While it is true that integration of renewables should generally reduce system GHG emissions by displacing other generation, the actual amount a particular type of renewable generator reduces GHG emissions can vary greatly, and system requirements to maintain reliability associated with integration of renewables can result in lower fuel efficiencies from the existing fossil resource

base. Because Sierra must continually balance generation resources, imports and exports to meet variable consumer demand in real time, the system is very dynamic. Consequently, system GHG emissions will fluctuate depending on how much consumers demand, where consumers demand power, and at what time of day and time of year consumers require power. When a renewable resource provides incremental generation that triggers a reduction from a fossil resource, the amount of GHG emissions the renewable resource displaces will depend on all of these factors. Thus, the degree of GHG displacement will vary greatly, and predicting an average GHG displacement value by renewable technology will necessarily be inaccurate. Sierra therefore urges CARB to avoid adding a degree of complexity to the existing RPS rules and rather utilize the existing MWh calculation.

Conclusion

Sierra appreciates the opportunity to provide comments on the RES Concept Outline. For the reasons discussed above, Sierra believes that the totality of circumstances justify exempting MJUs from the RES. If CARB is not inclined to provide such an exemption, then it must work with the MJUs to properly accommodate their special circumstances.